

morning, that will give a little background on criminal statutes. First of all, it should be made clear to all the senators, and I'm saying this for the record, that a speeding offense in Nebraska is a crime. There is a case, State v. Knowles (phonetic), which made that point clear. Any crime in Nebraska is a crime only because it's created by statute. The statute creating the offense creates the elements of that offense. Before a complaint charging that offense is valid, it must contain each of the essential elements of that offense, as laid out in the statutes. Once this is done and the case goes to trial, there cannot be a conviction unless each of those essential elements is proved beyond a reasonable doubt. The statute that is being amended today is at the top of the handout that I gave you, exactly as it appears in the law books. That statute is 39-667. And the heading is, "Charging violations of speed regulation; summons; burden of proof." This is what subsection (1) says, in every charge of violation of any speed regulation in Sections 39-601 to 39-6122, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the maximum speed for the type of vehicle involved, applicable within the district or at the location. That statute, as I read it, was on the books last year when the Supreme Court ruled in a case, and it's difficult to know why they ruled that way, that the speed of the defendant is not an element of the offense, which would mean that no particular speed has to be proven to obtain a conviction for speeding. In addition to the fact that that opinion by the court ignored and went contrary to the written law, it poses a problem with reference to the point system that exists in Nebraska. In a speeding violation points are assessed on the basis of how many miles above the limit a person is convicted of having driven. So if it's now necessary to prove a speed, then the point system cannot fairly be administered, because when administratively the Department of Motor Vehicles is to assess points, they need...they may not have a speed to base the assessment of points upon. But at any rate, I've talked to a couple of judges about this, they couldn't figure out why the court ruled in the way that the court did, because the statute telling how to charge the offense contains the elements. Prosecutors, defense attorneys, even authorities on the speeding law such as myself were surprised at what the court had done and could not explain it. What the court did in reaching its decision was to rely on a case in 1972...the decision was in 1972, and they ruled that based on this case of Milansen (phonetic) v. State, which is a 19...which was decided